

Appl. No. 10/087,458
Amdt. dated June 6, 2005

REMARKS

CLAIMS

Claims 27-48 are pending in the present application. Claims 27-36 are amended, and claims 37-48 are added by way of this Amendment.

The Applicants appreciate the teachings in Cheney et al., however, Applicant respectfully disagrees that Cheney renders the present invention unpatentable. To suggest Cheney may be adapted to be used as a finger nail trimmer renders Cheney unsatisfactory for its intended purpose, See MPEP 2143.01. Cheney discloses a sanding block suitable for manual use or attachment to power sander for sanding non-planar surfaces, and appears to be adapted for conventional sanding applications in construction, woodworking, and the like. Not only is Cheney unsuited to be used for the purpose for which the present invention is optimized, i.e. nail trimming, Cheney fails to disclose or suggest every element of Applicant's claimed invention.

First, Cheney does not disclose or suggest an elongated mobile housing having a size and shape suitable for being held in a single hand of the user, as recited in claims 27, 37, 42, 43, and 47. The size and shape of the housing in the present invention are clearly structural features that provide the important advantage of one-handed operability, enabling the operator to grasp the trimming device in one hand while holding the fingers to be trimmed in the other hand (or to trim the nails of the operator's other hand). In Cheney, the only element that could be called a "housing" which is grasped by the user and which houses an electric drive is the powered sanding device 20 of Fig. 3. Rather than being elongated as claimed in the present application, the power sander of Cheney has length, width, and height of comparable dimension and does not have one dimension that is clearly "elongated" relative to the others. This makes the device very awkward, if not impossible, for grasping in a single hand. Moreover, Cheney states that the sanding block of his device typically has a length of 5 or 6 inches, a width of 4 or 5 inches, and a thickness of at least $\frac{3}{4}$ inch (col. 7, lines 37-40), and appears far larger when combined with a power sanding device as in Fig. 3. With such a size, it cannot be said that Cheney discloses or suggests a device having a housing with "size and shape suitable for being grasped in a single hand" as claimed in the present case. Claims 27, 37, 42, 43, and 47 are thus patentable over Cheney. Dependent claims 28-36, 38-41, 44-46, and 48 are patentable as being dependent from claims 27, 37, 43, and 47, respectively.

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Moreover, Cheney fails to disclose or suggest a device in which the movable head is "substantially smaller than the user's hand," as recited in claims 27, 37, 43, and 47. By providing a head of such small size, the present invention enables the trimming of finger nails, particularly those of an infant, without injuring tissue surrounding the nails or elsewhere on the subject. Cheney's sanding device has a sanding head which as described above is larger than a person's hand, typically having a length of 5 or 6 inches and a width of 4 or 5 inches. A head of such size, especially if coupled to a power sanding device, is completely unsuitable for trimming nails without substantial risk of injury to adjacent tissue. Cheney therefore provides no suggestion or motivation to provide a head "substantially smaller than the user's hand" as claimed herein. For this additional reason, Claims 27, 37, 43 and 47 are patentable over Cheney. Dependent claims 28-36, 38-41, 44-46, and 48 are patentable as being dependent from claims 27, 37, 43, and 47, respectively.

Cheney also fails to disclose or suggest a sanding device in which at least one of the selected motion, the selected speed, the grit, and the shock absorption are selected to allow the abrasive surface to trim a person's nail while the person's epidermal tissue surrounding the nail remains unharmed if contacted by the abrasive surface, as recited in claims 27, 37, 43 and 47. Such a limitation imposes clear structural limitations on the elements of the claimed invention; i.e. the motor, movable head, abrasive surface, and shock absorbing member, must be constructed with appropriate power level, range of speed, range and degree of motion, roughness, degree of shock absorption, etc. to enable a nail to be trimmed while not damaging adjacent tissue. Cheney fails to disclose or suggest that the device could possibly be used for sanding a person's nails, nor does Cheney recognize that material near the target sanding area might be harmed by the movement of the sanding head. Cheney is silent as to the use of the sanding device other than it is for sanding planar and non-planar surfaces including moldings (col. 1, line 50). Cheney states that the sanding device is conformable in order to be able sand non-planar surfaces and does not suggest that this conformability would provide any protection to adjacent material as in the present invention. As is well known in the art, sanding devices frequently have some degree of conformability to accommodate non-planar surfaces; however, such devices may at the same time have sufficient stiffness, speed, grit, and motion to cause damage to epidermal tissue if used for the purpose of sanding nails. Thus, conformability alone cannot be said to allow a device to effectively trim nails while not harming adjacent epidermal tissue. Claims 27, 37, 43, and 47 are thus patentable over Cheney. Dependent claims 28-36,

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38-41, 44-46, and 48 are patentable as being dependent from claims 27, 37, 43, and 47, respectively.

In addition, Cheney does not disclose or suggest a movable head positioned near the first end of the body and having a working surface facing laterally relative to the longitudinal axis, as claimed in independent claim 42 and dependent claims 41 and 45. Such a structural difference allows the present invention to trim a person's nail in a more ergonomic fashion. In Cheney, if a longitudinal axis is drawn from the end of the device on which the sanding block is mounted to the opposite end, the surface of the movable head on which the abrasive surface is mounted (surface 13A) faces in the same direction as the longitudinal axis. Thus, Cheney fails to disclose or suggest a head having a working surface that faces laterally relative to the longitudinal axis as claimed in Independent claim 42 and dependent claim 41, 45, and 48. Claim 42 is therefore patentable over Cheney.

Further, Cheney does not disclose or suggest a switch extending out of said body at a position for actuation of a finger defined by said one hand, as claimed in claim 37. While a switch to activate a motorized device is known in the art, Cheney does not disclose or suggest the structure that enables a switch to be activated by the same hand which is holding the device. This is important because the present invention is then capable of use with a single hand, freeing the second hand for trimming or holding an infant's hand. The device can then be activated and deactivated without releasing the infant's hand. Thus, the present invention as claimed in claim 43 is patentably distinct from Cheney.

Finally, Cheney neither discloses nor suggests a movable head which moves in an oscillating motion, as claimed in independent claim 48 and dependent claims 40 and 46. Cheney discloses that the power sanding device could be rotational or orbital, but nowhere suggests oscillating motion. For purposes of nail trimming, such oscillating motion provides effective nail removal while minimizing harm to adjacent tissue. Cheney fails to disclose a sanding device with such oscillation, and fails to suggest any reason why such oscillation would be advantageous. Claims 40, 46 and 48 are therefore patentable over Cheney.

In view of the foregoing, Cheney, either alone or in combination with other prior art, fails to anticipate or render obvious Applicants' claimed invention as defined by the amended claims.

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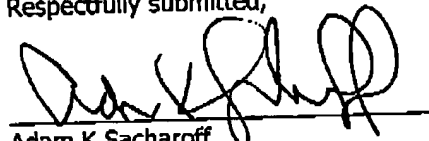
Reconsideration is respectfully requested.

In view of the above amendments remarks reconsideration is requested. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. A return receipt postcard is enclosed. If the Office has any questions, please free feel to contact the undersigned at 312-521-2775.

Date: 6-6-05

Respectfully submitted,

By:



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